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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,721	04/13/2004	Hiroaki Sakai	03500.018062	2859
5514	7590	10/20/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			GLEITZ, RYAN M	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/822,721

Applicant(s)

SAKAI ET AL.

Examiner

Ryan Gleitz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 and 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/28/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I - Table 1, embodiment 1.

Species II - Table 2, embodiment 2.

Species III - Table 3, embodiment 3.

Species IV - Table 4, embodiment 4, figure 4.

Applicant was required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-9 are generic.

The application further contains claims directed to the following patentably distinct species of the claimed invention:

Species A - Identification means of a printer controller.

Species B - An operation panel.

Species C - Printer driver software.

Species D - Switching means on an electric circuit.

Applicant was required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-16 are generic.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the

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limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Response Election/Restrictions

During a telephone conversation with Lawrence Stahl on 14 October 2005 a provisional election was made without traverse.

Regarding Species I-IV, election was made to prosecute Species I, claim 10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Regarding Species A-D, election was made to prosecute Species A, which corresponds to claim 17 of the claims filed 13 April 2004. However, in response to the election requirement,

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Applicant has amended claims 17-20 to include each of Species A-D in the alternative. These claims will be treated according to the restriction practice re Markush-type claims. See MPEP 803.02.

Further regarding the amendment filed 14 October 2005, claims 18-20 have been amended to depend on claims of a non-elected invention, and are therefore withdrawn from further consideration by the examiner.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter “identification means” and “printing driver software”. The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Objections

Claims 16 and 17 are objected to because the terms “identification means” and “printing driver software” are not described in the Specification in such a way that the scope of the claims can be determined.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9, 10, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Stelter et al. (US 5,051,780).

Stelter et al. disclose an image forming apparatus including an image formation unit for forming and bearing a toner image on a recording material, as shown in figure 1; a fixing apparatus including a heat-fixing rotation member (45) and a pressure rotation member (47) with an elastic layer (102) which rotate while pressed against each other, the heat-fixing rotation member (45) providing heat for heat-fixing treatment of the toner image formed on the recording material as the recording material is introduced into a press-fit nip portion of the heat-fixing (45) and pressure rotation members (47) and held and transported between the heat-fixing (45) and pressure rotation members (47).

Fuser control (130) includes a temperature adjusting means for adjusting a temperature of the pressure rotation member (47) by heating the pressure rotation member (47), col. 3, lines 43-47, wherein set points are set in standby, col. 4, line 31, which reads on the condition of a temperature adjustment made by the temperature adjusting means can be changed at least during non-printing time.

Regarding claim 2, the temperature adjusting means can operate in plural temperature control modes, e.g. simplex and duplex, see col 4, lines 40-49, that can be chosen in accordance with a temperature control mode executed by the temperature adjusting means in at least non-printing time, and wherein the temperature adjusting means operates in a temperature control mode selected from the plural temperature control modes.

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Regarding claim 3, fusing control (130) also includes a switch to control the power supplied to lamps 103 and 113, col. 3, lines 47-48; and sensor (104) is a temperature detecting means for detecting the temperature of the pressure rotation member (47); and the fusing control also includes a control means for controlling the switching device in accordance with detection information provided by the temperature detecting means.

Regarding claim 4, the fusing control (130) also is a second temperature adjusting means, which heats the heat-fixing rotation member to adjust a temperature of the heat-fixing rotation member.

Regarding claim 5, heating means (113) is for heating the heat-fixing rotation member (45); adjustment means, included in fusing control (130) is for opening or cutting a current flow from a commercial power source to the heating means (113); and sensor (114) is a temperature detecting means for detecting the temperature of the heat-fixing rotation member (45); and control means for controlling the adjustment means in accordance with detection information provided by the temperature detecting means. See col. 3, lines 47-48.

Regarding claim 6, the non-printing time is a time period when the apparatus is in standby state. Col. 4, line 31.

Regarding claim 7, since the standby temperatures are lower than during a run, col. 4, lines 40-49, less power is consumed and, therefore, the standby state is a power-saving state.

Regarding claim 9, the condition of the temperature adjustment made by the temperature adjusting means comprises whether the heating means is electrified or not during the non-printing time. See col. 3, lines 43-48.

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Regarding claim 10, the condition of the temperature adjustment made by the temperature adjusting means comprises an adjustment temperature in non-printing time, for example depending on whether simplex or duplex mode is selected. See col. 4, lines 40-49.

Regarding claims 16 and 17, logic/control (200) reads on an interface command from a printer controller, referring to identification means of a printer controller.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stelter et al. (US 5,051,780) in view of Isobe (JP 2000-075726).

Stelter et al. disclose the image forming apparatus above but do not disclose a sleep mode.

However, Isobe discloses an image forming apparatus including a sleep mode, and the power consumption, that is, the ON and OFF control of the heating of the fixing rollers, is controlled during the sleep mode. See abstract, lines 13-15.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the image forming apparatus of Stelter et al. with the sleep mode taught by Isobe to suppress power consumption more than having an idle waiting machine. See abstract, lines 13-14.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur Grimley can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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